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WP-41029-2026

IN THE HIGH COURT OF MADHYA PRADESH
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE MILIND RAMESH PHADKE

ON THE 29th OF SEPTEMBER, 2026

WRIT PETITION No. 41029 of 2026

CNR No.: MPHC030273922026

WP 5184/2025 IN REFERENCE

Versus

THE STATE OF MADHYA PRADESH

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Appearance:

Shri Dharmendra Nayak, Government Advocate for the State.
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ORDER

The present petition has been preferred seeking appropriate directions for medical termination of pregnancy of the minor girl/prosecutrix, who is stated to be aged about 13 years and 2 months. From the material placed on record, including the communication of the Child Welfare Committee, Vidisha, it appears that the minor is a victim in connection with an offence registered under the provisions of the Protection of Children from Sexual Offences Act, 2012 and the Bharatiya Nyaya Sanhita, 2023. The Child Welfare Committee has recorded that, as per the available record, the minor is carrying a pregnancy of approximately 28 weeks and 2 days.

2. The record further reflects that, pursuant to the directions issued by the Division Bench of this Court in W.P. No.5184/2025, In Reference (Suo Motu) Vs. The State of Madhya Pradesh and Others, decided on 20.02.2025, the matter was referred for necessary medical examination and opinion of the



Medical Board. The learned Special Judge, POCSO, Vidisha, also directed that the medical examination/report be transmitted to this Court for appropriate orders. The aforesaid procedure is consistent with the directions issued by the Division Bench of this Court in **In Reference (Suo Motu) Vs. The State of Madhya Pradesh and Others (supra)** wherein this Court considered the necessity of ensuring expeditious medical and legal assistance in cases involving termination of pregnancy of survivors of sexual assault, particularly having regard to the fact that delay in such matters may have serious consequences. The said judgment also considered the provisions of the Medical Termination of Pregnancy Act, 1971 and observed that, where the pregnancy is beyond the statutory period, the High Court may exercise its jurisdiction under Article 226 of the Constitution of India for appropriate directions.

3. The record of the Medical Board dated 28.09.2026 has been carefully perused. The Medical Board has considered the available medical investigations and has opined that termination of pregnancy can be allowed. The Board has also found that the minor is medically stable and that there is no other medical reason preventing termination of the pregnancy. The Medical Board has noticed that the minor is suffering from moderate iron-deficiency anaemia. The Board has also opined that the anaemia may increase the risk of complications, including excessive bleeding, and therefore requires appropriate medical treatment and precautions. More importantly, in Clause 7 of the Medical Board's report dated 28.09.2026, relating to the physical fitness of the minor for termination of pregnancy, the



Board has given its opinion as “Yes”. The Board after detailed scrutiny has recorded that the minor is presently physically fit to undergo the procedure for termination of pregnancy. The report dated 28.09.2026, therefore, supports the prayer for termination of pregnancy.

4. This Court has also considered the provisions of Sections 3(1), 3(2) and 5(1) of the Medical Termination of Pregnancy Act, 1971, including the statutory presumption regarding the mental anguish caused by pregnancy resulting from rape. This Court is conscious of the fact that, in the present case, the pregnancy is beyond 24 weeks. The Division Bench of this Court in **In Reference (Suo Motu) Vs. The State of Madhya Pradesh and Others (supra)**, has considered the legal position regarding termination of pregnancy beyond 24 weeks and has observed that in such cases the High Court may exercise its jurisdiction under Article 226 of the Constitution of India and pass appropriate orders. In the present case, the girl is a minor aged about 13 years and 2 months and is carrying a pregnancy of about 28 weeks and 2 days. The record of the Child Welfare Committee also shows that the matter relates to an offence under the provisions of the Protection of Children from Sexual Offences Act, 2012. The Court cannot lose sight of the age of the minor, the circumstances in which the pregnancy has occurred, the trauma suffered by her and the mental agony which she is presently facing. The Court also has to consider the effect of continuation of such pregnancy which may have upon the physical and mental well-being of the minor and her future. At the same time, it has to carefully consider the medical opinion given by the Medical Board. The Board has found the minor presently fit for



termination of pregnancy. However, it has also noticed moderate iron-deficiency anaemia and the increased risk of bleeding. Therefore, the procedure has to be carried out by a team of experienced doctors after taking all necessary medical precautions. The Medical Board having found the minor presently physically fit for termination of pregnancy and having permitted the procedure, this Court is of the considered opinion that, looking to the facts and circumstances of the present case, the prayer made deserves to be allowed.

5. Accordingly, the petition is allowed with the following directions:

(i) The Dean/Medical Superintendent of the Atal Bihari Bajpai Government Medical College and Hospital, Vidisha, shall constitute a team of senior and experienced doctors, including doctors from the Departments of Obstetrics and Gynaecology, Anaesthesia, Medicine and Paediatrics. The Medical Team shall undertake the procedure of medical termination of pregnancy on **30th September, 2026 at 2:00 PM**, subject to the minor being found medically fit for the procedure immediately before it is undertaken. Before the procedure, the Medical Team shall again examine the minor, particularly her haemoglobin level, and shall take all necessary treatment and precautions to reduce the risk of excessive bleeding and other complications.

(ii) The procedure shall be undertaken at a hospital having necessary facilities for emergency treatment, blood transfusion, anaesthesia, intensive care and neonatal care, keeping in view the gestational age of about 28 weeks. The minor and her parents/natural guardian shall be properly informed and counselled regarding the procedure, its possible risks and complications, including the increased risk due to anaemia and the possibility of



complications to the child, if born alive. Necessary consent shall be obtained in accordance with law and applicable medical protocol.

(iii) The Superintendent of Police, District Vidisha, and the concerned Station House Officer shall make all necessary arrangements for the safe transportation and presence of the minor at the concerned hospital on 30.09.2026. The Medical Team shall take all necessary steps for the safety and well-being of the minor during and after the procedure and, in case of any medical complication, shall provide immediate and appropriate treatment in accordance with accepted medical practice. If the child is born alive during or after the procedure, the Medical Team shall provide necessary medical and neonatal care in accordance with law and accepted medical practice. It is further directed that, in terms of the law laid down by the Division Bench of the Bombay High Court in *Shaikh Ayesha Khatoon Vs. Union of India*, reported in 2018 SCC OnLine Bom 11, the parents of the minor shall be duly sensitized by the Committee/Medical Board regarding the risks and complications involved in the procedure. It is further made clear that the doctors who have given their opinions in the matter shall have immunity from any liability in the event of any litigation arising out of the said procedure.

(iv) The Medical Team shall preserve such medical records, samples and other material as may be required for the purpose of criminal investigation or trial, including DNA sampling and preservation, if required by the Investigating Officer or the competent Criminal Court, in accordance with law. The identity, confidentiality and dignity of the minor shall be strictly maintained. After completion of the procedure, the Medical Team shall prepare a medical report regarding the procedure and the condition of the minor and shall submit a confidential compliance



report to the concerned Court/Registry. The procedure shall be carried out strictly in accordance with the opinion of the Medical Board and accepted medical practice, and all necessary precautions shall be taken to protect the life and health of the minor.

(v) The Registry shall communicate a copy of this order forthwith to the Dean/Medical Superintendent, Atal Bihari Bajpai Government Medical College and Hospital, Vidisha, the Chief Medical and Health Officer, District Vidisha, the Superintendent of Police, District Vidisha, the concerned Station House Officer, the Child Welfare Committee, Vidisha, and the learned Government Advocate for immediate compliance. A copy of this order shall also be forwarded to the concerned Medical Board/Medical Team for necessary action. The identity of the minor shall be kept confidential in all Court records, communications and proceedings, in accordance with law.

6. With the aforesaid directions, the writ petition is allowed and disposed of.

(MILIND RAMESH PHADKE)
JUDGE

(aspr)